

# ITEL

**BY FEDERAL EXPRESS**

## **Itel Rail Corporation**

550 California Street  
San Francisco, CA 94104  
(415) 984-4200

March 13, 1992

2-076A015

8669 0  
RECORDED TO FILED

MAR 16 1992 - 10 25 AM

INTERSTATE COMMERCE COMMISSION

Hon. Sidney L. Strickland, Jr., Esq.  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

### **Re: Termination and Release Agreement ("Termination")**

Dear Mr. Strickland:

On behalf of Itel Rail Corporation, the above instrument, in two (2) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$16 recordation fee.

Please record the subject Termination under the Equipment Lease Agreement dated as of <sup>9064-D</sup>April 15, 1982, as amended (as amended, the "Lease"), between Pittsburgh National Bank and Itel Rail Corporation, successor to Itel Corporation, Rail Division, which was filed with the ICC on August 20, 1978, under Recordation No. 8669.-I.

The parties to the aforementioned instrument are listed below:

Pittsburgh National Bank (Lessor)  
5th and Wood Streets  
Pittsburgh, Pennsylvania 15222

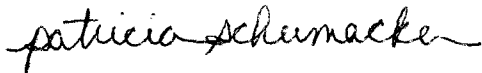
Itel Rail Corporation (Lessee)  
550 California Street  
San Francisco, California 94104

This Termination effectively terminated the Lease when filed on September 20, 1982, under Recordation No. 9664-D. The cross-indexing of this Termination to Recordation No. 8669 was inadvertently omitted at the time. This filing is meant to correct that omission. This Termination affects all cars in the Lease as they had been remarked through the filing of the Termination.

Hon. Sidney L. Strickland  
March 13, 1992  
Page Two

Please return to the undersigned the stamped counterpart not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

A handwritten signature in cursive script that reads "patricia schumacker". The signature is written in black ink and is positioned above the printed name and title.

Patricia Schumacker  
Legal Assistant

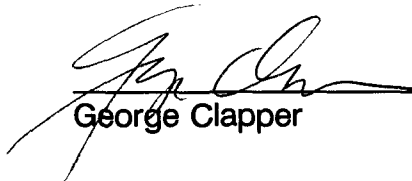
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**CERTIFICATE OF TRUE COPY**

MAR 16 1992 -10 25 AM

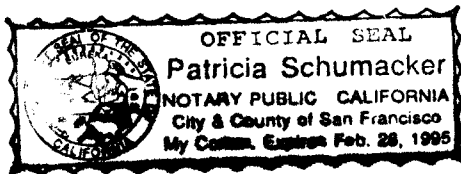
INTERSTATE COMMERCE COMMISSION

On March 13, 1992, I, George Clapper, examined an original copy of the Termination and Release Agreement made as of April 15, 1982, between Pittsburgh National Bank and Itel Corporation, Rail Division. I hereby certify that I have compared the attached duplicate copy with the original, and that it is a complete, true and correct copy of the original in all respects, including the dates, signatures and acknowledgements thereof.

  
George Clapper

STATE OF CALIFORNIA                    )  
  ) ss.  
COUNTY OF SAN FRANCISCO    )

On this 13th day of March 1992, before me personally appeared George Clapper, personally known to me to be the person whose name is subscribed to the above instrument, and he acknowledged that he executed the same.



  
Notary Public

RECORDATION NO. 9663-7  
SEP 20 1982 - M 11 AM

INTERSTATE COMMERCE COMMISSION

## TERMINATION AND RELEASE AGREEMENT

This Termination and Release Agreement is made as of April 15, 1982 by and between Pittsburgh National Bank ("PNB") and Itel Corporation, Rail Division, debtor and debtor-in-Possession ("Itel").

### RECITALS

- A. PNB and Itel as debtor entered into an Equipment Lease Agreement dated as of August 15, 1978 (the "Lease") pursuant to which PNB leased 50 70-ton 89'4" flatcars to Itel. Such flatcars presently bear reporting marks as follows:

APLX 17051 through 17080 (hereinafter the "30 Cars"),

and	PW 105004	PW 105034
	PW 105006	PW 105035
	PW 105010	PW 105036
	PW 105016	PW 105042
	PW 105019	PW 105044
	PW 105020	PW 105045
	PW 105021	PW 105046
	PW 105023	PW 105047
	PW 105026	PW 105048
	PW 105027	PW 105049

(hereinafter the "20 Cars")

The 30 Cars and the 20 Cars are hereinafter collectively called the "Cars".

- B. PNB and Itel as debtor entered into Amendment Number 1 to the Lease dated as of April 22, 1980, pursuant to which PNB consented to the termination of the sublease of the Cars between Itel as debtor and Providence and Worcester Company and further consented to the sublease of the 30 Cars by Itel as debtor to American President Lines, Ltd. ("APL"). The Lease and Amendment Number 1 are hereinafter collectively called the "Lease".
- C. Itel as debtor entered into a Lease Agreement dated as of April 9, 1980 and amended July 1, 1980 with APL with respect to the 30 Cars. Such Lease Agreement as amended (the "Sublease") expires June 30, 1982.
- D. PNB has filed Proof of Claim No. 2200 (the "Proof of Claim") in the United States Bankruptcy Court Northern District of California (the "Court").

Now, therefore, the parties agree as follows:

#### 1. Termination of Lease With Respect to 20 Cars

PNB and Itel hereby terminate the Lease effective April 15, 1982 with respect to the 20 Cars.

2. Releases With Respect to the 20 Cars

(a) Except for the obligations set forth herein, PNB hereby releases Itel from all claims, liabilities and obligations (past, future or present, known or unknown) related to the 20 Cars or arising under or related to the Lease with respect to the 20 Cars. Except for the obligations set forth herein, Itel hereby releases PNB from all claims, liabilities and obligations (past, present or future, known or unknown) related to the 20 Cars or arising under or related to the Lease with respect to the 20 Cars.

(b) Itel hereby represents that, to the best of its knowledge after reasonable diligent inquiry, there are no property tax obligations outstanding with respect to the 20 Cars as of the date of execution hereof.

3. Hitch Repair and Movement of 20 Cars

(a) PNB shall cause the failed hitch supports on the 20 Cars to be replaced and any appurtenances to such hitch supports to be repaired pursuant to the Itel Maintenance Procedure IMP 10-TJ0100 which is attached hereto as Exhibit A. The bills related to such repair shall be sent directly to Itel c/o Director of Finance, Two Embarcadero Center, 23rd Floor, San Francisco, CA 94111 together with detailed invoices or descriptions of the work performed. Itel shall pay to PNB an amount equal to the first \$12,000 of expenses with respect to such replacement and repair. Any additional expense in excess of \$12,000 with respect to such repair shall be the expense of and be paid by PNB.

(b) PNB shall promptly notify Itel of the location where PNB wishes the 20 cars to be delivered and Itel shall promptly cause the 20 Cars to be delivered at PNB's expense to such location.

4. Termination of Lease With Respect to 30 Cars

Itel will make rental payments with respect to the 30 Cars in the amount of \$31,797.96 to PNB on (i) May 15, 1982 or (ii) the first business day after this agreement is approved by the United States Bankruptcy Court Northern District of California (the "Court"), whichever is sooner and \$26,556.54 on June 30, 1982. Effective June 30, 1982 the Lease is hereby terminated with respect to the 30 Cars.

5. Releases With Respect to 30 Cars

(a) Effective June 30, 1982 and except for the obligations set forth herein, PNB hereby releases Itel from all claims, liabilities and obligations (past, present or future, known or unknown) related to the 30 Cars or arising under or related to the Lease with respect to the 30 Cars. Effective June 30, 1982 and except for the obligations set forth herein, Itel hereby releases PNB from all claims, liabilities and obligations (past, present or future, known or unknown) relating to the 30 Cars or arising under or related to the Lease with respect to the 30 Cars.

(b) Itel hereby represents that, to the best of its knowledge after reasonable diligent inquiry, there are no property tax obligations outstanding with respect to the

30 Cars as of June 30, 1982.

6. Inspection and Possible Repair of 30 Cars

- (a) PNB has notified Itel that PNB wishes the 30 Cars to be delivered to Salt Lake City, Utah or such other location that Lessor shall reasonably designate at the expense of PNB.
- (b) Upon arrival at Salt Lake City, or such other location that Lessor shall reasonably designate, PNB shall cause the 30 Cars to be inspected at its expense to determine if the 30 Cars are in a condition ("Interchange Condition") suitable for interchange service as required in the Field Manual of the AAR Interchange Rules January 1, 1982 edition as published by the Association of American Railroads.
- (c) If the inspector for PNB reports that any of the 30 Cars is not in Interchange Condition, PNB shall notify Itel's Director of Finance at the address set forth in 3(a) hereof of the reason and the estimated cost to bring such Car into Interchange Condition. If Itel does not believe such cost is justified, it may cause its own inspector to inspect such Car at PNB's expense. With respect to any work which Itel determines is justified with respect to bring any Car into Interchange Condition, Itel shall reimburse PNB for the cost of such work in an amount equal to the first \$600.00 of expenses with respect to such work for such Car. Any additional expense in excess of \$600.00 with respect to any of the 30 Cars shall be the expense of an paid by PNB. The bills related to such work shall be sent directly to Itel, c/o Director of Finance, together with detailed invoices or descriptions of the work performed.

7. Withdrawal of Claim

Upon approval of the Court of this Termination and Release Agreement, PNB shall promptly file a Withdrawal of Claim with the Court in the form attached as Exhibit B hereto. If this Termination and Release Agreement is not approved by the Court on or before July 15, 1982, PNB shall have no obligation to file a Withdrawal of Claim.

*Edg. PNB*

8. Approval by Court

*Edg. PNB* This Termination and Release Agreement is subject to the approval of the Court on or before July 15, 1982. If this Termination and Release Agreement is not approved by the Court on or before July 15, 1982, the Termination and Release Agreement shall be null and void.

*Edg. PNB*

In witness whereof, the parties have caused this Termination and Release Agreement to be executed by their duly authorized officers.

Itel Corporation, Rail Division,  
Debtor and Debtor in Possession

By *Edward J. McQuinn*

President

Dated 7-9-82

Pittsburgh National Bank

By *Robert H. Smith*

Title V.P.

Dated 6/14/82